

14. John T. Brady, Director of Finance and Administration, Petra Cablevision, Central Islip, New York. Witness Brady was sponsored by the Petitioner to present rebuttal testimony with respect to the accuracy rate of advance payments for makeready work.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

RESOLUTION BY THE COMMISSION
(Pursuant to Pub. Serv. L. #20)

In the Matter of the Rules and Regulations of the Public Service Commission, 16 NYCRR, Chapter I, Rules of Procedure, Part 2 - Hearings and Rehearings (formerly cited as Case 11175).

At a session of the Public Service Commission held in the City of Albany on March 14, 1972 the Commission, by unanimous vote of its members present,

RESOLVED:

1. That the provisions of Section 101-a of the Executive Law having been complied with, Section 2.7 of Chapter I, Rules of Procedure, Part 2 - Hearings and Rehearings, of Title 16 of the Official Compilation of Codes, Rules and Regulations of the State of New York, be and it hereby is amended to read as follows:

2.7 INITIAL DECISIONS. (a) Briefs. Briefs as to facts and law will be received and may be required to be submitted in any proceeding. The presiding commissioner or examiner will fix the place of filing and the time within which briefs may be filed, and briefs received subsequent to such time may not be considered.

(b) Tentative and Recommended Decisions. In proceedings before it the Commission may itself issue a tentative decision or may, at the outset or at any subsequent stage of a proceeding designate any of its responsible officers to do so. The report of such officer shall constitute a recommended decision. The tentative or recommended decision, as the case may be, shall be served upon all parties, or their attorneys of record, and upon staff counsel.

(c) Exceptions to Tentative or Recommended Decisions.

(1). Any party including staff counsel may take exception to a tentative or recommended decision. Exceptions shall be filed within twenty (20) days after the filing or service of the decision (designated "Briefs on Exceptions"). "Briefs Opposing Exceptions" may be filed in response to briefs on exceptions within fifteen (15) days after the filing date for briefs on exceptions. These time periods may be extended by the Secretary, in his discretion, upon application by any party. No further response will be entertained unless the Commission, upon motion, or upon its own initiative, so orders. All Briefs on Exceptions and Briefs Opposing Exceptions shall be filed with the Secretary of the Commission at Albany.

(2). Briefs on Exceptions shall contain (i) a short statement of the case, (ii) a summary of the basic position of the party filing, (iii) the grounds upon which the exceptions rest, and (iv) the argument in support of the exceptions with appropriate reference to the record and to authorities relied upon. There may also be included specific proposed findings and conclusions in lieu of those to which exception is taken or in addition to those recommended. Briefs Opposing Exceptions shall follow the same form, but may omit a statement of the case.

(3). Briefs on Exceptions and Briefs Opposing Exceptions shall be self-contained and shall be limited to fifty pages in length. They shall clearly show the docket designation, title of the proceeding before the Commission and the name of the party in whose behalf the filing is made. Twenty-five copies of each brief shall be filed with the Commission. One copy shall be signed in ink by the party in interest or his attorney and shall include his post office address and telephone number. All copies filed shall be conformed to that copy. All briefs shall contain a signed affirmation that service has been made on all parties. The date of service shall be the day when briefs are deposited in the United States mail or when they are delivered in person, whichever the case

may be. However, service on the Commission shall be the date when the brief is received. If the last day for service falls on a day when the Commission is not normally open for the conduct of regular business, service must be made by the close of business on the next regular business day.

(d) Failure to Except. (1). Failure to file a Brief on Exceptions within the time allowed shall constitute a waiver of all objections to the tentative or recommended decision. Failure to except to any portion of a tentative or recommended decision shall constitute a waiver of all such objections to which exceptions have not been taken. Such objections to which a party has not excepted may not thereafter be raised before the Commission in oral argument or in an application for rehearing.

(2). Failure of any party to except shall not preclude the Commission from reviewing the tentative or recommended decision on its own motion.

(e) Oral Argument. Any party or staff counsel who files a Brief on Exceptions or Opposing Exceptions may request that oral argument be held on the tentative or recommended decision and the exceptions thereto. Such motion must be filed within the time limited for the filing of Briefs Opposing Exceptions. If the motion is granted by the Commission all parties who filed Briefs on Exceptions will be afforded an opportunity to be heard. Oral argument shall be limited to matters properly raised on the record and specified in the exceptions, unless the Commission otherwise directs.

(f) For good cause shown, parties or staff counsel may file a motion with the Commission to modify the above rules for filing Briefs on Exceptions or Opposing Exceptions.

2. That the foregoing amendment shall be made effective

March 31, 1972.